



Nantucket Planning Board

STAFF REPORT

Date: February 6, 2020

To: Planning Board

From: Megan Trudel,
Land Use Specialist

Re: Staff Report for February 10, 2020 Planning Board Regular Monthly Meeting

Call to Order:

Approval of the Agenda:

Consent Items:

a. Minutes:

- February 6, 2020
- January 27, 2020
- January 16, 2020
- January 13, 2020
- December 9, 2019
- November 14, 2019

b. Secondary Dwellings:

- **PLDW-2020-02-0017 Amy Ambrecht, 14 Gingy Lane (Map 41, Parcel 850)** The applicant is proposing to construct a four (4) bedroom secondary dwelling. The applicant further requests, pursuant to Section 139-20.1B(2)(h) a second curb cut to provide access to the secondary dwelling. The proposed secondary dwelling, will have an approximate ground cover of 1,236 square feet and is located on the southwestern portion of the site, which has approximately 11,000 square feet and is zoned R-1. The five (5) bedroom primary dwelling has an approximate ground cover of 1,586 square feet.

It is noted that, pursuant to the conditions in the Gingy Lane Subdivision- Planning Board File #7133, this lot is one of the three lots allowed a secondary dwelling.

The secondary dwelling will be accessed by a proposed brick driveway off of Gingy Lane, which is a private, paved road. The driveway located on the northeastern portion of the site will contain a total of two (2) 9' x 20' exterior parking spaces with an additional 9' x 20' interior parking space in the garage. The driveway located on the southwestern portion of the site with access to the secondary dwelling will have a 9' x 20' exterior parking space and a compact 7' x 18' parking space. The site will contain a total for five (5) parking spaces. Due to the spacing between the proposed curb cuts and the current spacing on the north side of the street, the second driveway access does not have

adverse impact on the scenic or historical integrity of the neighborhood. Additionally, the second driveway access is not contrary to sound traffic and safety considerations;

The plan, as submitted meets the requirements of Zoning Bylaw Sections 139-18 and 139-20.1.

Planning staff recommends approval of this application with the following conditions:

- (1) That aprons at the driveway entrances with Giny Lane shall be maintained with a minimum depth of ten (10) feet and a maximum width of twenty-seven (27) feet, flared to a width not to exceed thirty-one (31) feet;
 - (2) That the head-in driveways not exceed (27) feet in width and (20) feet in depth measured from the property line;
 - (3) That any future landscaping at the driveway entrances be limited to low growing plant material not to exceed three (3) feet in height;
 - (4) That the driveways be cleared free of vegetation and obstruction to a width of twelve (12) feet and a height of thirteen (13) feet; and,
 - (5) That the applicant shall submit an As-Built prior to the final inspection by staff which shall take place prior to the issuance of a Certificate of Occupancy.
- **PLDW-2020-02-0018 Sixty-Four Pocomo Realty Trust, Christopher Kelly, Trustee 64 Pocomo Rd (Map 15, Parcel 30)**

The applicant is proposing to construct a three (3) bedroom secondary dwelling. The proposed secondary dwelling, will have an approximate ground cover of 1,546 square feet and is located on the western portion of the site, which has approximately 123,485 square feet and is zoned LUG-3. The four (4) bedroom primary dwelling has an approximate ground cover of 2,622 square feet.

It is noted that this site currently has a second dwelling that is being reconstructed.

Both dwellings will be accessed by an existing gravel driveway off of Pocomo Road, which is a public, partially paved road. The driveway will contain a total of five (5) 9' x 20' exterior parking spaces and two (2) interior parking spaces. The plan, as submitted meets the requirements of Zoning Bylaw Sections 139-18 and 139-20.1.

Planning staff recommends approval of this application with the following conditions:

- (1) That the travelled surface of the driveway shall be a minimum of ten (10) feet in width and a maximum of fifteen (15) feet;
- (2) That any future landscaping at the driveway entrances be limited to low growing plant material not to exceed three (3) feet in height;
- (3) That the driveways be cleared free of vegetation and obstruction to a width of twelve (12) feet and a height of thirteen (13) feet; and,
- (4) That the applicant shall submit an As-Built prior to the final inspection by staff which shall take place prior to the issuance of a Certificate of Occupancy.

Previous Plans:

- **#61-19 & #8139 Hawthorne Park, Hawthorne Lane & Hummock Pond Road, *Approve legal document***

Public Hearings:

- **#62-19 Mid-Island Service Limited Partnership MCD, 41 & 43 Sparks Avenue, *action deadline 3-31-2020***
CONTINUE TO 03-09-2020
- **#71-19 Merlos Landscaping, Inc. (Modification #3), 8B Greglen Avenue, *action deadline 03-31-2020***
CONTINUE TO 03-09-2020

- **PLSUB-2019-12-00018 Skinners Way Subdivision, 320R Milestone Road, *action deadline 04-29-2020***
CONTINUE TO 04-13-2020

- **PLSP-2020-01-0030 ACK Crazy LLC, 9 West Chester Street, *action deadline 05-10-20***
CONTINUE TO 03-09-2020

- **PLSP-2020-01-0031 Millie's Market (Amendment #10), 324 Madaket Road, *action deadline 05-10-20***

The applicant is seeking an Amendment to an MCD to allow the operation of a farm truck, with the intent to sell fresh produce and other like products on the site.

Planning staff recommends approval of this application but suggests determining a location for the truck to be placed and hours of operation. Additionally, staff recommends the following condition:

- 1) A site plan be approved by the Board showing the approved location of the farm truck on the site; and

If the Board approves this application, the following findings must be made:

- 1) That the Amendment is in harmony with the general purpose and intent of the Bylaw; and
- 2) That allowing the use of the farm truck on the site is consistent with the findings of the original decision.

*Please note that staff may provide further recommendations at the meeting.

- **PLSP-2020-01-0032 Francisco Merlos, 4 Forrest Avenue, *action deadline 05-10-20***

The applicant is seeking a Special Permit to use the site for a landscape contractor. It is noted that the site is currently located in the RC-2 zoning district and will likely be changed to either CN or CTEC in the future, as the RC-2 zoning district is in the active process of being phased out. The applicant proposes to construct a 900 square foot steel structure and concrete block storage bay for landscaping materials. As proposed, the site meets parking requirements pursuant to the Bylaw and does not meet the threshold for an MCD.

Planning staff recommends approval as proposed with the following conditions:

- 1) That any expansion shown beyond what's shown on the site plan must be brought back to the Board for further relief; and
- 2) Pursuant to the proposed language changes of landscape contractor for ATM 2020, "Exterior storage of equipment and/or materials must be effectively screened by a wall, fence, or densely planted vegetative buffer.

If the Board approves this application, the following finding must be made:

- 1) That the Amendment is in harmony with the general purpose and intent of the Bylaw; and

- **PLSP-2020-01-0033 KENAKQUAP LLC, 13 & 15 Spearhead Road, *action deadline 05- 10- 20***

The applicant is seeking to validate the use of storage containers and hoop tent storage in response to a zoning violation. The site is zoned Commercial Industrial and the applicant's use of the storage containers is both in harmony with the neighborhood and allows for the safe and efficient storage of material required to conduct their business.

Planning staff recommends approving the use of the storage container on the site as proposed. If the Board were to approve the request, the following finding must be made:

- 1) That the use of the storage containers are in harmony with the general purpose and intent of the Bylaw.

Additionally, Planning staff recommends the following conditions:

- 1) That screening be installed on the Spearhead Road portion of the site within forty-five (45) days of the filing of this decision;
- 2) That the zoning violation surrounding the unpermitted structure is resolved to the satisfaction of the Building Commissioner within sixty (60) days of this decision; and

That the storage containers and hoop tent be located in substantial compliance with the site plan titled, "Proposed Site Plan of Land", prepared by Island Surveyors LLC and dated January 13, 2020.

- **PLSP-2020-01-0029 Hera & Sujata Maharjan, 24 Bailey Road, *action deadline 05-10-20***

The Applicant is seeking to validate a second driveway access. The request is in response to an active zoning violation where the Applicant added (2) two additional drive way access points on the Bailey Road portion of the site, bringing the total number of driveway access

points to (3) three. The Planning Board unanimously denied that layout. Subsequently, the Applicant proposes to eliminate the third access point and bring the driveway dimensions into compliance with the Bylaw.

As currently proposed, the applicant would have (1) one driveway access on Bailey Road and (1) one driveway access on Cedar Circle in order to accommodate both sides of the duplex.

Planning staff recommends approval of this applicant as proposed, with the following condition:

- 1) That the validated driveway access on Bailey Road be brought into compliance of 139-20.1 and 139-18 within forty-five (45) days of the filing of this decision.

If the Board decides to approve this application, the following findings must be made:

- 1) That the second driveway access is not contrary to sound traffic and safety considerations because the site is located on a corner lot and the second driveway access provides separate access to each side of a duplex on different streets; and
- 2) That the second driveway access does not have adverse impact on the scenic or historical integrity of the neighborhood as it is consistent with current approvals recently made by this Board, most notably the direct abutter across the street at the January 9, 2020 meeting.

- **PLSP-2020-01-0034 Winthrop Nantucket Realty Trust, 7 & 9 Salem Street; 2 & 4 New Whale Street; Straight Wharf, *action deadline 05-10-20***

The applicant is seeking relief from the open-space requirement for a commercial use. At the January 9, 2020 Planning Board meeting, the Board endorsed an ANR Plan to divide and reconfigure the affected parcels. Pursuant to the Bylaw, the collective parcels are to maintain 20% open-space. Currently, the open space area, free of impervious surfaces for the parcels considered as a whole, has been calculated at 9.6% or 8,156 square feet. Upon the ANR Plan being filed with the Land Court, the total area will be split into three lots (Lot numbers TBD) shown as: "Group 1" comprised of Lots, 4A, 15A, 6A, W-1, W-2 and 3 with an open area of 9.3% or 4,827 square feet; "Group 2" comprised of Lots 4B, 15B, 8 and 16 with an

open space area of 15.4% or 2,715 square feet; and "Group 3" (containing the tank farm) comprised of Lots 6B and 10 with an open space area of 4% or 618 square feet.

The conditions for open space are existing and the request is for the total amount in each group/newly created lot remain unchanged.

If the Board decides to approve this application, the following findings must be made:

- 1) The applicant's request is in keeping with the general purpose and intent of the Bylaw.

Additionally, Planning Staff recommends that the following conditions be put into place:

- 1) That the applicant must donate the equivalent value (the Board should provide direction on it's determination of this value) of the waived 10.4% or approx.. 8,838 square feet of open space to help with the creation, update, and/or upkeep in a Town owned open-space site to be located in the Historic Downtown District as approved by Town staff; and
- 2) That that applicant cannot seek further relief from the open space requirements as broken down per parcel and notated in the application and decision without further relief from the Board.

Warrant Articles Discussion:

- **Article #55:**
Zoning Map amendment to place 8 properties on the north side of Polpis Road currently located in the Village Residential (VR) district in the Village Neighborhood (VN) district (citizen petition);
Applicants have not provided Staff with a deed restriction as discussed at the January 27, 2020 meeting. The lots included in this article were the subject of a rezoning from the LUG-1 district to the VR district around the 2010 ATM. That rezoning made the lots more conforming and provided less restrictive setback and ground cover allowances. If approved, this rezoning would provide even less restrictive requirements, resulting in lot division, additional ground cover, and commercial use potential that does not currently exist. Although commercial use exists on the opposite side of Polpis Road, that property has historically been used commercially and the two commercial properties included in this article are pre-existing nonconforming. Additional commercial use on these properties is not something that this Board supports.
- **Article #61:**
Zoning Bylaw amendment and Home Rule Petition to insert a new section adding the requirement for a liability waiver granted by the property owner in favor of the Town of Nantucket prior to the issuance of a building permit for construction on lots on “shorefront land” or within 300 feet of “shorefront land” (citizen petition). Staff is opposed to this article at this time. The Board acknowledges that the intent of this article may have merit, however, significantly more discussion is needed to develop this concept. Requiring such a waiver as a prerequisite to the issuance of a building permit may not be the most appropriate approach. Input from various town departments as well as boards/committees/commissions who are involved with coastal issues should occur before this type of concept is adopted.
- **Article #60:**
Zoning Bylaw amendment to create an additional development option to create affordable dwelling units through the issuance of a special permit in the Limited Use General 2 (LUG-2) and Limited Use General 3 (LUG-3) districts (citizen petition); See opinion provided by Town Counsel. The Board must decide if the article is substantially different by a 4/5 majority vote.
- **Article #44:**
Zoning Map amendment to place properties at 33 Old South Road and 24 Ticcoma Way currently located in the Residential Commercial 2 (RC-2) district in the Residential 5 (R-5) district and/or Commercial Neighborhood (CN) district;
- **Article #50:**
Zoning Bylaw amendment for new driveways within the “Core Historic Districts” requiring that a Certificate of Appropriateness must be issued by the Nantucket Historic District Commission prior to driveway access approval by the Department of Public Works;
Staff is in support of this article.
- **Article #63:**
Zoning Bylaw amendment to add a provision that 1 out of every 10 building permits issued for new residential dwelling units must be designated as “affordable” (Citizen Petition); and
Although not written as a Zoning Bylaw, the article suggests a future Bylaw can

be created, which is false since this is an open-ended rate of growth concept which has been found to be unconstitutional.

- **Article #64:**

Zoning Bylaw amendment to add a provision requiring that public infrastructure within 500 feet of a property boundary must be documented photographically and any damage resulting from construction must be repaired by the property owner prior to the issuance of a certificate of occupancy or other certification of completion of the approved work (Citizen Petition).

Although not submitted as a Zoning Bylaw, this article proposes a bylaw that applies to publicly owned right of way issues, more appropriately covered by a general Bylaw or existing personnel.

Preliminary Plans:

- **PLSUB-2020-02-00028 Tamzin Carr Hutchinson, 8 Bayberry Lane (Map 67 Parcel 72), 3 lots, 2 buildable lots**

The applicant is proposing a three (3) lot (two (2) buildable and one (1) roadway lot) subdivision within the R-20 zoning district. The property contains approximately 45,984 square feet. Lot 4-A will contain approximately 21,746 square feet; Lot 4-B will contain approximately 20,788 square feet; and the “Roadway Lot” will contain approximately 3,450 square feet. Lot 4-A will have frontage on Bayberry Lane and Lot 4-B will have frontage on the newly created “Roadway Lot”. The site is included in Warrant Article 47, ATM 2020 that proposes to change the zoning from R-20 to R-40 and therefore, the applicant has submitted the preliminary plan for review to freeze the zoning.

Public Comments:

Other Business:

- Finance Committee Warrant Articles recommendations
- Discussion of Planning Board comments on articles 47, 48, 51, 55, 58, 60, 61, 63
- Planning Board, Thursday, February 13, 2020 @ 5:30PM, PSF Community Room (first floor), *Warrant Articles discussion if needed only*
- Discuss upcoming meeting dates for non-public hearing agenda items to address ANRs, escrow release, etc.... at 2 Fairgrounds Road. 12PM-1:00PM (Thursday once a month).
- Next regular Planning Board meeting – Monday, March 9, 2020 @ 5:00PM, PSF Community Room (first floor)

Adjournment:

